

77-22a-1. Administrative subpoenas -- Controlled substances investigations -- Procedures -- Witness fees.

(1) (a) The administrative subpoena process of this chapter may be used only to obtain third party information under circumstances where it is clear that the subpoenaed information is not subject to a claim of protection under the Fourth, Fifth, or Sixth Amendment, United States Constitution, or a similar claim under Article I, Sec. 12 and Sec. 14, Utah Constitution.

(b) A party subpoenaed under this chapter shall be advised by the subpoena that the party has a right to challenge the subpoena by motion to quash filed in the appropriate district court named in the subpoena before compliance is required.

(2) (a) In any investigation relating to an attorney's functions under this chapter regarding controlled substances, the attorney general or a deputy or assistant attorney general, the county attorney or a deputy county attorney, or the district attorney or deputy district attorney may subpoena witnesses, compel the attendance and testimony of witnesses, or require the production of any records including books, papers, documents, and other tangible things that constitute or contain evidence found by the attorney general or a deputy or assistant attorney general or the county attorney or district attorney, as provided under Sections 17-18a-202 and 17-18a-203, or the county attorney's or district attorney's deputy under Section 17-18a-602, to be relevant or material to the investigation.

(b) The attendance of witnesses or the production of records may be required from any place within the state.

(3) Witnesses subpoenaed under this section shall be paid the same fees and mileage costs as witnesses in the state district courts.

(4) If the attorney general, a deputy or assistant attorney general, or the county attorney or district attorney, or a deputy attorney determines that disclosure of the existence of an administrative subpoena or of the information sought or of the existence of the investigation under which it is issued would pose a threat of harm to a person or otherwise impede the investigation, the subpoena shall contain language on its face directing that the witness not disclose to any person the existence or service of the subpoena, the information being sought, or the existence of an investigation.

Amended by Chapter 237, 2013 General Session

77-22a-2. Service of administrative subpoena.

(1) A subpoena issued under this section may be served by any person designated in the subpoena for that purpose. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association subject to suit under a common name by delivering the subpoena to an officer, managing or general agent, or other agent authorized by appointment or law to receive service of process.

(2) The affidavit of the person serving the subpoena, when entered on a copy of the subpoena by the person serving it, is proof of service.

Enacted by Chapter 9, 1989 General Session

77-22a-3. Compliance with administrative subpoena.

(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the attorney general or a deputy or assistant attorney general or the county attorney or district attorney or his deputy may compel compliance with the subpoena through the district court:

- (a) in the jurisdiction where the investigation is carried on;
- (b) where the subpoenaed person is an inhabitant;
- (c) where he carries on business; or
- (d) where he may be found.

(2) The court may issue an order requiring the person subpoenaed to produce records or to appear before the attorney general or deputy or assistant attorney general, or the county attorney or district attorney or his deputy who issued the subpoena testimony touching the matter under investigation.

(3) Any failure to obey the court order may be punished by the court as contempt. All process in the case may be served in any judicial district in which the person may be found within the state.

(4) A witness may not be held liable in any civil or criminal proceeding for producing records or disclosing information to the person issuing the administrative subpoena as commanded by the subpoena.

Amended by Chapter 38, 1993 General Session